

**2004 No. 2825**

**SOCIAL SECURITY**

**The Social Security (Housing Costs Amendments)  
Regulations 2004**

*Made* - - - - - *28th October 2004*

*Laid before Parliament* *4th November 2004*

*Coming into force* - - - *in accordance with regulation 1(2)*

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 123(1)(a), 135(1), 137(1) and 175(1) and (3) to (5) of the Social Security Contributions and Benefits Act 1992(a), sections 4(5), 35(1) and 36(2) and (4) of the Jobseekers Act 1995(b) and sections 2(3)(b), 17(1) and 19(1) of the State Pension Credit Act 2002(c) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(d), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Housing Costs Amendments) Regulations 2004.

(2) These Regulations shall come into force—

- (a) except for the purposes of regulation 3(a), on 28th November 2004, and
- (b) for the purposes of regulation 3(a), on 28th November 2005.

(3) In these Regulations—

- “the Income Support Regulations” means the Income Support (General) Regulations 1987(e);
- “the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(f); and
- “the State Pension Credit Regulations” means the State Pension Credit Regulations 2002(g).

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(a) 1992 c.4. Section 137(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”. Section 175(1) and (4) was amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).

(b) 1995 c.18. Section 35(1) is an interpretation provision and is cited because of the meaning ascribed to the words “prescribed” and “regulations”.

(c) 2002 c.16. Section 17(1) is an interpretation provision and is cited because of the meaning ascribed to the words “prescribed” and “regulations”.

(d) See section 173(1)(b) of the Social Security Administration Act 1992 (c.5).

(e) S.I. 1987/1967.

(f) S.I. 1996/207.

(g) S.I. 2002/1792.

## **Amendments to the Income Support Regulations, the Jobseeker's Allowance Regulations and the State Pension Credit Regulations**

2.—(1) Schedule 3 to the Income Support Regulations(a), Schedule 2 to the Jobseeker's Allowance Regulations(b) and Schedule II to the State Pension Credit Regulations(c) (housing costs) shall be amended in accordance with this regulation.

(2) In paragraph 1(2) of each of those Schedules (housing costs), in the definition of “standard rate” the words “specified in” shall be substituted by the words “determined in accordance with”.

(3) In the explanation of “B” in—

- (a) paragraph 10 of Schedule 3 to the Income Support Regulations,
- (b) paragraph 9 of Schedule 2 to the Jobseeker's Allowance Regulations, and
- (c) paragraph 7(1) of Schedule II to the State Pension Credit Regulations,

for the words after “the time being” there shall be substituted the words “applicable in respect of that loan”.

(4) For the sub-paragraphs of—

- (a) paragraph 12 of Schedule 3 to the Income Support Regulations,
- (b) paragraph 11 of Schedule 2 to the Jobseeker's Allowance Regulations, and
- (c) paragraph 9 of Schedule II to the State Pension Credit Regulations,

there shall be substituted the following sub-paragraphs—

“(1) The standard rate is the rate of interest applicable per annum to a loan which qualifies under this Schedule.

(2) Subject to sub-paragraphs (3), (4) and (6), the standard rate shall be 1.58 per cent. plus—

- (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or
- (b) where an order under section 19 of the Bank of England Act 1998 (reserve powers) (d) is in force, any equivalent rate determined by the Treasury under that section.

(3) The Secretary of State shall determine the date from which the standard rate calculated in accordance with sub-paragraph (2) takes effect(e).

(4) Where—

- (a) the actual rate of interest charged on the loan which qualifies under this Schedule is less than 5 per cent. per annum on the day the housing costs first fall to be met, and
- (b) that day occurs before 28th November 2004,

the standard rate shall be equal to that actual rate.

(5) Sub-paragraph (4) shall cease to apply in a particular case to any one or more loans which fall within that sub-paragraph on whichever of the following dates occurs first—

- (a) the date on which the actual rate of interest charged on such a loan is 5 per cent. per annum or higher,
- (b) the anniversary of the date on which the housing costs first fell to be met, or

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(a) Schedule 3 was substituted by S.I. 1995/1613; relevant amending instruments are S.I. 2001/3651 and 2004/2174.

(b) Relevant amending instruments are S.I. 1996/1517 and 2001/3651.

(c) Relevant amending instrument is S.I. 2002/3197.

(d) 1998 c.11.

(e) The date determined by the Secretary of State and the amount of the standard rate are available from the Department for Work and Pensions at the following address: DWP, Housing Support Division, 5th Floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT. The date determined and the standard rate are published on the DWP website ([www.dwp.gov.uk](http://www.dwp.gov.uk)) at least seven days before the new standard rate becomes applicable.

(c) where a supersession decision based on a change of circumstances arising on or after 28th November 2004 is made under section 10 of the Social Security Act 1998 (decisions superseding earlier decisions)(a), the date of the change of circumstances.

(6) Where sub-paragraph (4) does not apply to a loan which qualifies under this Schedule, the standard rate shall be 5.88 per cent. until the first date determined by the Secretary of State under sub-paragraph (3).”.

(5) In the definition of “existing housing costs” in paragraph 1(2) (housing costs) of Schedule 3(b) to the Income Support Regulations and Schedule 2 to the Jobseeker’s Allowance Regulations (housing costs), there shall be substituted for head (a)—

“(a) which replaces an existing agreement, provided that the person liable to meet the housing costs—

(i) remains the same in both agreements, or

(ii) where in either agreement more than one person is liable to meet the housing costs, the person is liable to meet the housing costs in both the existing agreement and the new agreement;”.

### **Consequential amendments**

**3.** In Schedule 9A to the Social Security (Claims and Payments) Regulations 1987(c) (deductions of mortgage interest from benefit and payment to qualifying lenders)—

(a) in paragraph 2(a) (specified circumstances for the purposes of regulation 34A), the words “(whether at the full rate or a lesser rate)” shall be omitted;

(b) in paragraph 11(2)(a)(i) (recovery of sums wrongly paid), for the words “specified in” there shall be substituted the words “determined in accordance with”.

Signed by authority of the Secretary of State for Work and Pensions.

28th October 2004

*Chris Pond*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

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(a) 1998 c.14. Section 10 was amended by the Social Security (Transfer of Functions, etc.) Act 1999 (c.2) and modified by the Tax Credits Act 2002 (c.21).

(b) Relevant amending instrument is S.I. 1995/2927.

(c) S.I. 1987/1968. Schedule 9A was inserted by S.I. 1992/1026; relevant amending instruments are S.I. 1995/1613, 1996/1460, S.I. 2002/3019 and 2002/3197.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the provisions of the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) and the State Pension Credit Regulations 2002 (S.I. 2002/1792) allowing a claimant's housing costs to be met. They also make small consequential amendments to the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968).

Regulation 2(4) substitutes the same new provisions for paragraph 12 of Schedule 3 to the Income Support (General) Regulations 1987, paragraph 11 of Schedule 2 to the Jobseeker's Allowance Regulations 1996 and paragraph 9 of Schedule II to the State Pension Credit Regulations 2002. These paragraphs set the standard rate which is used to calculate the amount of interest on a loan that will be met under those Regulations. The new sub-paragraphs (2) and (3) set the standard rate by reference to the Bank of England base rate from a date to be determined by the Secretary of State. The new sub-paragraph (4) applies to specified cases and sets the standard rate by reference to the actual rate of interest on a loan. By virtue of the new sub-paragraph (5), these specified cases will move onto the standard rate determined in accordance with the new sub-paragraph (2) during the year after these Regulations come into force. The new sub-paragraph (6) sets the standard rate for a transitional period.

Regulation 2(5) amends Schedule 3 to the Income Support (General) Regulations 1987 and Schedule 2 to the Jobseeker's Allowance Regulations 1996. It amends the circumstances in which a claimant can remortgage and the standard rate will still be set by reference to the actual rate of interest on their loan.

Regulation 3 makes consequential amendments to the Social Security (Claims and Payments) Regulations 1987. Amendment (a) comes into force a year after the other provisions in these Regulations by which time the wording omitted will be redundant.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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